

**Executive Summary – Enforcement Matter – Case No. 41877**  
**Olmito Water Supply Corporation**  
**RN102673332**  
**Docket No. 2011-0990-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Olmito WSC, 101 Clara Bennett Drive, Olmito, Cameron County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 4, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,240

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$290

**Total Due to General Revenue:** \$5,950

Payment Plan: 35 payments of \$170 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41877**  
**Olmito Water Supply Corporation**  
**RN102673332**  
**Docket No. 2011-0990-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** June 8, 2011  
**Date(s) of NOE(s):** June 10, 2011

***Violation Information***

1. Failed to achieve a turbidity level of combined filter effluent that is less than 1.0 Nephelometric Turbidity Units (“NTU”) [30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested [30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to measure and record the turbidity level at the effluent of each filter at least once per day [30 TEX. ADMIN. CODE § 290.111(e)(3)(D)(ii)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. As of March 1, 2011, achieved compliance with the turbidity levels of the combined filter effluent of less than 1.0 NTU;
- b. As of April 21, 2011, achieved compliance with the turbidity levels of the combined filter effluent of less than 0.3 NTU in at least 95% of the samples tested; and
- c. As of October 1, 2010, began monitoring and recording the turbidity level at the effluent of each filter at least once per day.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41877**  
**Olmito Water Supply Corporation**  
**RN102673332**  
**Docket No. 2011-0990-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Michaelle Sherlock, Enforcement Division,  
Enforcement Team 2, MC R-13, (210) 403-4076; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Juan J. Lozano, Board President, Olmito Water Supply Corporation, 212  
North Arroyo, Suite A, Los Fresnos, Texas 78566

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Jun-2011	<b>Screening</b>	20-Jun-2011	<b>EPA Due</b>	30-Dec-2010
	<b>PCW</b>	21-Jun-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Olmito Water Supply Corporation
<b>Reg. Ent. Ref. No.</b>	RN102673332
<b>Facility/Site Region</b>	15-Harlingen
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	3
<b>Enf./Case ID No.</b>	41877	<b>Order Type</b>	Findings
<b>Docket No.</b>	2011-0990-PWS-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Michaelle Sherlock
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$4,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **56.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,240**

Notes: Enhancement for eight NOV's with same/similar violations and eight NOV's with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts: \$265  
Approx. Cost of Compliance: \$350  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,240**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$6,240**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,240**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$6,240**

**Screening Date** 20-Jun-2011

**Docket No.** 2011-0990-PWS-E

**PCW**

**Respondent** Olmito Water Supply Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 41877

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102673332

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Michaelle Sherlock

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	8	40%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 56%

>> **Repeat Violator (Subtotal 3)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for eight NOVs with same/similar violations and eight NOVs with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 56%

Screening Date 20-Jun-2011

Docket No. 2011-0990-PWS-E

PCW

Respondent Olmito Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41877

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673332

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(A) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to achieve a turbidity level of combined filter effluent that is less than 1.0 Nephelometric Turbidity Units ("NTU") for one day in December 2010 and two days in February 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%
Failure to maintain required turbidity levels could expose persons served by the Facility to a significant amount of contaminants that would not exceed levels that are protective of human health.					

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 3

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$750

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$265

Violation Final Penalty Total \$1,170

This violation Final Assessed Penalty (adjusted for limits) \$1,170

## Economic Benefit Worksheet

**Respondent** Olmito Water Supply Corporation  
**Case ID No.** 41877  
**Req. Ent. Reference No.** RN102673332  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$250	1-Dec-2010	28-Feb-2011	1.16	\$15	\$250	\$265
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount for additional sampling and oversight that could have prevented the exceedances, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance

\$250

**TOTAL**

\$265

Screening Date 20-Jun-2011

Docket No. 2011-0990-PWS-E

PCW

Respondent Olmito Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41877

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673332

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(B) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested in August 2010, September 2010, December 2010, January 2011, February 2011, and March 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain required turbidity levels in at least 95% of samples tested each month could expose persons served by the Facility to a significant amount of contaminants that would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 6

182 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Six monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,680

This violation Final Assessed Penalty (adjusted for limits) \$4,680

# Economic Benefit Worksheet

**Respondent** Olmito Water Supply Corporation  
**Case ID No.** 41877  
**Reg. Ent. Reference No.** RN102673332  
**Media** Public Water Supply  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Captured in the avoided costs in Violation No. 1.

Approx. Cost of Compliance \$0

**TOTAL** \$0

**Screening Date** 20-Jun-2011  
**Respondent** Olmito Water Supply Corporation  
**Case ID No.** 41877

**Docket No.** 2011-0990-PWS-E

**PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102673332  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Michaelle Sherlock

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(e)(3)(D)(ii)

**Violation Description** Failed to measure and record the turbidity level at the effluent of each filter at least once per day for 31 days in August 2010 and nine days in September 2010.

**Base Penalty** \$1,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential		x		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to measure and record the turbidity levels could result in persons served by the Facility being exposed to significant amounts of undetected contaminants which would not exceed levels that are protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

Number of Violation Events 1 Number of violation days 40

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$250

One quarterly event is recommended, calculated from the first date of the violation August 1, 2010, to the date of compliance, October 1, 2010.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$390

**This violation Final Assessed Penalty (adjusted for limits)** \$390

## Economic Benefit Worksheet

**Respondent** Olmito Water Supply Corporation  
**Case ID No.** 41877  
**Req. Ent. Reference No.** RN102673332  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Aug-2010	1-Oct-2010	0.17	\$1	n/a	\$1

#### Notes for DELAYED costs

The delayed costs include the estimated amount to implement procedures to ensure that turbidity measurements are collected on a daily basis. The date required is the first date of non-compliance and the final date is the date the Facility returned to compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$1

### Compliance History

Customer/Respondent/Owner-Operator: CN600657548 Olmito Water Supply Corporation Classification: Rating: 2.79  
AVERAGE  
Regulated Entity: RN102673332 OLMITO WSC Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0310026  
WATER LICENSING LICENSE 0310026  
Location: 101 CLARA BENNETT DRIVE, OLMITO, CAMERON COUNTY, TEXAS  
TCEQ Region: REGION 15 - HARLINGEN  
Date Compliance History Prepared: June 13, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 13, 2006 to June 13, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michaelle Sherlock Phone: (210) 403-4076

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/16/2006	(482998)
2	02/26/2007	(537675)
3	04/19/2007	(557461)
4	02/25/2008	(610742)
5	04/19/2007	(652223)
6	11/08/2007	(652860)
7	10/03/2008	(704210)
8	01/06/2009	(709355)
9	02/27/2009	(722670)
10	06/03/2009	(741391)
11	11/09/2009	(776183)
12	05/25/2010	(796664)
13	05/25/2011	(912675)
14	06/08/2011	(922786)
15	06/08/2011	(923425)
16	06/09/2011	(924350)
17	06/09/2011	(924449)
18	06/09/2011	(932636)

19 06/09/2011 (932699)

20 06/10/2011 (932705)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/28/2007 (537675)CN600657548  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
Description: Failure to use proper standards to verify accuracy of the disinfectant analyzer.

Date: 02/28/2007 (537675)CN600657548  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)  
Description: Failure to maintain proper calibration records for laboratory equipment.

Date: 04/19/2007 (652223)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TOTAL TRIHALOMETHANES

Date: 11/08/2007 (652860)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TOTAL TRIHALOMETHANES

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to maintain and have available an up-to-date chemical and microbiological monitoring plan. Specifically, a monitoring plan was not available for review during the February 13, 2008 investigation.

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: Failure to maintain the raw water pumps in good working condition. Specifically, during the February 13, 2008 investigation both raw water pumps were observed to out of service (see attached photograph).

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: Failure to maintain the transfer pumps in good working condition. Specifically, during the February 13, 2008 investigation one transfer pump was observed to out of service (see attached photograph).

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)  
Description: Failure to provide adequate mechanical in enclosures where chlorine is being stored or fed. Specifically, during the February 13, 2008, investigation the mechanical ventilation in the chemical feed room was observed to not be operational.

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B)  
Description: Failure to have disinfectant type, feed points, and monitoring consistent with the facilities approved CT Study. Specifically, during the February 13, 2008 investigation it was observed the facility was not being operated according the system's current approved CT Study.

Date: 02/25/2008 (610742)CN600657548  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 312, SubChapter F 312.122(a)  
Description: Failure to register with the TCEQ to land apply water treatment plant sludge. Specifically, during the February 13, 2008 investigation it was observed the facility had not registered to land apply water treatment plant sludge while sludge was being disposed of at the facility.

Date: 02/26/2009 (722670)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: Failure to maintain the transfer pumps in good working condition.

Date: 02/26/2009 (722670)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to provide all water treatment units and related appurtenances in a watertight condition.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)  
30 TAC Chapter 290, SubChapter D 290.45(d)(3)(B)

Description: Failure to provide water treatment plant which that is no less than the system's maximum daily demand.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.38(34)  
30 TAC Chapter 290, SubChapter D 290.42(m)

Description: Failure to enclose the water treatment plant with an intruder resistant fence.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)

Description: Failure to provide vacuum breakers on all water treatment plant hose bibs.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)

Description: Failure to provide raw water pump capacity of 0.51 gallons per minute per connection with the largest pump out of service.

Date: 11/10/2009 (776183)CN600657548

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)

Description: Failure to maintain the transfer pumps in good working condition.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to provide all water treatment units and related appurtenances in a watertight condition.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)  
30 TAC Chapter 290, SubChapter D 290.45(d)(3)(B)

Description: Failure to provide water treatment plant which that is no less than the system's maximum daily demand.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.38(34)  
30 TAC Chapter 290, SubChapter D 290.42(m)

Description: Failure to enclose the water treatment plant with an intruder resistant fence.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)

Description: Failure to provide raw water pump capacity of 0.51 gallons per minute per connection with the largest pump out of service.

Date: 05/24/2010 (796664)CN600657548

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)  
30 TAC Chapter 290, SubChapter D 290.45(d)(3)(B)

Description: Failure to provide water treatment plant which that is no less than the system's maximum daily demand.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)

Description: Failure to provide raw water pump capacity of 0.51 gallons per minute per connection with the largest pump out of service.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supplier and an emergency telephone number where a responsible official can be contacted.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to provide copies of Customer Service Inspection reports.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)

Description: Failure to calibrate the continuous disinfectant residual analyzer with a chlorine solution of known concentration at least once each month.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(l)  
Description: Failure to ensure that containment facilities for a single container or for multiple interconnected containers must be large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(iii)  
Description: Failure to calibrate the On-line pH meter at least once every 30 days  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
Description: Failure to provide a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii)  
Description: Failure to provide records of backflow inspections and test reports.  
Date: 05/25/2011 (912675)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)  
30 TAC Chapter 290, SubChapter D 290.45(d)(3)(B)  
Description: Failure to provide water treatment plant which that is no less than the system's maximum daily demand.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
Description: Failure to provide raw water pump capacity of 0.51 gallons per minute per connection with the largest pump out of service.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
Description: Failure to post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supplier and an emergency telephone number where a responsible official can be contacted.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)  
Description: Failure to provide copies of Customer Service Inspection reports.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
Description: Failure to calibrate the continuous disinfectant residual analyzer with a chlorine solution of known concentration at least once each month.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(l)  
Description: Failure to ensure that containment facilities for a single container or for multiple interconnected containers must be large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(iii)  
Description: Failure to calibrate the On-line pH meter at least once every 30 days  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
Description: Failure to provide a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii)  
Description: Failure to provide records of backflow inspections and test reports.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
Description: Failure to provide the storage tank with a liquid level indicator located the site.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(7)  
Description: failure to provide the ground storage tank with a means of removing accumulated silt and deposit at all low points in the bottom of the tank.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure to provide the ground storage tank with an overflow with a closed cover that must fit tightly with no gap over 1/16 inch.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to provide housekeeping and maintenance to the ground storage tank to ensure good working and condition and general appearance.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
Description: Failure to provide a transfer pump capacity of 0.51 gallons per minute per connection with the largest pump out of service.

Date: 05/27/2011 (922786)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: August 2010 - 18.3% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Date: 06/03/2011 (923425)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: September 2010 - 7.8% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Date: 06/08/2011 (924449)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: February 2011 - 35.7% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: February 2011 - 2 days with combined filter effluent turbidity above 1.0 NTU.

Date: 06/08/2011 (922786)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)  
Description: August 2010 - 31 days when the plant was online but individual filter turbidity data were not collected.

Date: 06/08/2011 (932699)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: January 2011 - 12.9% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Date: 06/08/2011 (923425)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(3)  
Description: September 2010 - 9 days when the plant was online but individual filter turbidity data were not collected.

Date: 06/08/2011 (932636)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
Description: March 2011 - 8.1% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Date: 06/08/2011 (924350)CN600657548  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)

Description: December 2010 - 22.0% combined filter effluent turbidity readings above 0.3 NTU. This exceeds the 5.0 % limit for the month.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)

Description: December 2010 - 1 day with combined filter effluent turbidity above 1.0 NTU

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OLMITO WATER SUPPLY  
CORPORATION  
RN102673332**

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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0990-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Olmito Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 101 Clara Bennett Drive in Olmito, Cameron County, Texas (the "Facility") that has approximately 1,667 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on June 8, 2011, TCEQ staff documented that the Respondent did not achieve a turbidity level of combined filter effluent that is less than 1.0 Nephelometric Turbidity Units ("NTU") for one day in December 2010 and two days in February 2011.
3. During a record review conducted on June 8, 2011, TCEQ staff documented that the Respondent did not achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested in August 2010, September 2010, December 2010, January 2011, February 2011, and March 2011.
4. During a record review conducted on June 8, 2011, TCEQ staff documented that the Respondent did not measure and record the turbidity level at the effluent of each filter at least once per day for 31 days in August 2010 and nine days in September 2010.
5. The Respondent received notice of the violations on June 20, 2011.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. As of March 1, 2011, achieved compliance with the turbidity levels of the combined filter effluent of less than 1.0 NTU;
  - b. As of April 21, 2011, achieved compliance with the turbidity levels of the combined filter effluent of less than 0.3 NTU in at least 95% of the samples tested; and
  - c. As of October 1, 2010, began monitoring and recording the turbidity level at the effluent of each filter at least once per day.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to achieve a turbidity level of combined filter effluent that is less than 1.0 NTU, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to achieve a turbidity level of the combined filter effluent that is less than 0.3 NTU in at least 95% of the samples tested, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to measure and record the turbidity level at the effluent of each filter at least once per day, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(3)(D)(ii).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Six Thousand Two Hundred Forty Dollars (\$6,240) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid Two Hundred Ninety Dollars (\$290) of the administrative penalty. The remaining amount of Five Thousand Nine Hundred Fifty Dollars (\$5,950) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy Dollars (\$170) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Two Hundred Forty Dollars (\$6,240) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Olmito Water Supply Corporation, Docket No. 2011-0990-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
5. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

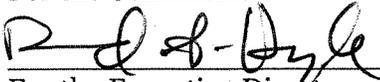
and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

12/2/11  
\_\_\_\_\_  
Date

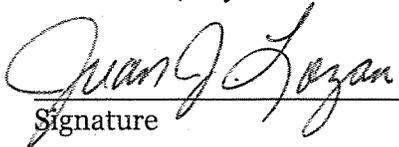
I, the undersigned, have read and understand the attached Agreed Order in the matter of Olmito Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Olmito Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Olmito Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

SE SEPTEMBER 14, 2011  
\_\_\_\_\_  
Date

JUAN J. LOZANO  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Olmito Water Supply Corporation

BOARD PRESIDENT  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.